REMARKS

The present Response and Amendment is intended to be fully responsive to all points of objection and/or rejection raised by the Examiner and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of the application is respectfully requested.

Status of Claims

Claims 24-28, 31-40 and 42-44 were previously pending in the application. Claims 27 and 40 have been cancelled herein without prejudice or disclaimer to resubmission in a divisional or continuation application. New claim 45 has been added. Accordingly, claims 24-26, 28, 31-39 and 42-45 are currently pending. Claims 24, 28, 34, 39, 43 and 44 have been amended.

These amendments add no new matter. Support for new claim 45 may be found, e.g., in paragraph [0032] of the Published Application.

Telephone Interview

Applicants thank Examiner Daniels for granting and attending the telephone interview, with Applicants' Representatives, Caleb Pollack (the undersigned) and Yamima Eadan, Reg. 64,764 on November 16, 2009. During the interview, Applicants' representatives proposed amendments to claim 24 (as a representative claim) and it was agreed that these amendments would overcome at least the rejection under 35 U.S.C. § 102 in view of Davidson. The proposed amendments are reflected above, and have been applied to the other independent claims.

CLAIM REJECTIONS

35 U.S.C. § 102 Rejection/New Claim

In the Office Action, the Examiner rejected claims 24-28, 31, 32 and 34-43 under 35 U.S.C. § 102(e), as being anticipated by Davidson et al. (U.S. Patent Application Publication No. 2004/0027500). Applicants respectfully traverse this rejection in view of the remarks that follow.

During the November 16, 2009 interview, claim amendments were proposed and the Examiner agreed that the proposed amendments overcame the U.S.C. § 102 rejection. The agreed-upon amendments are included in the amendments above (with adaptations for other independent claims).

Claim 34 as amended includes, *inter alia*,

> to assign a score to each of a plurality of frames to be displayed substantially simultaneously based on a degree of variation of [a] predetermined criterion of each frame and [a] reference image [and] to determine a spatial position of the frames to be displayed substantially simultaneously in order of ascending or descending degree of variation based on the score assigned thereto.

Each of claims 24, and 39 as amended ncludes, *inter alia*:

> assigning a score to each of the plurality of frames based on a degree of variation of [a] predetermined criterion of each frame and [a] reference image; [and] spatially positioning the frames in order of ascending or descending degree of variation based on the score assigned thereto.

Applicants respectfully assert that Davidson does not teach at least these features. In particular, Davidson does not teach "spatially positioning frames to be displayed substantially simultaneously in order of ascending or descending degree of variation."

In paragraph [0050] lines 19-24 of Davidson, referenced by the Examiner, multiple images (e.g. 412, 414, 416, and 418 of Fig. 4A) are selected to be fused into a single image (e.g. 420 of Fig. 4A) based on criteria. Although Davidson does not explicitly teach assigning a score to position the multiple images within the fused image frame, in the Remarks to Arguments section of the Office Action, the Examiner asserts that assigning a score is inherent in deciding whether or not to fuse an image based on its spectral characteristics. The Examiner asserts that the score is whether or not the image has a desired spectral characteristic. Applicants assert that this decision, in Davidson, is not explicitly based on a score, and that Davidson does not explicitly or implicitly teach the use of a score.

For a reference to anticipate a claim, the reference must teach every element of the claim either explicitly or inherently. Applicants assert that Davidson neither explicitly nor inherently teaches spatially positioning frames to be displayed substantially simultaneously based on scores assigned thereto and, in addition, spatially positioning frames to be displayed

substantially simultaneously in order of ascending or descending degree of variation, as required in each of Applicants' claims 24, 34 and 39.

Amended independent claims 24, 34 and 39 are therefore allowable over Davidson.

Each of claims 25-26, 28, 31, 32, 35-38, 42 and 43 and new claim 45 depends, directly or indirectly, from one of claims 24, 34, and 39, and therefore includes all the limitations of one of these claims. Therefore, Applicants respectfully assert that claims 25-26, 28, 31, 32, 35-38, 42, 43 and 45 are likewise allowable.

Claims 27 and 40 have been cancelled herein. Applicants note that claim 41 has been cancelled in a previous amendment filed June 30, 2009. Therefore the rejection thereof are moot.

Applicants respectfully request that the Examiner withdraw the rejection under 35 U.S.C. § 102 of claims 24-28, 31, 32 and 34-43.

35 U.S.C. § 103 Rejections

In the Office Action, the Examiner rejected claim 33 under 35 U.S.C. § 103(a), as being unpatentable over Davidson in view of Iddan et al. (US Patent No. 5,604,531) and claim 44 under 35 U.S.C. § 103(a), as being unpatentable over Davidson. Applicants respectfully traverse this rejection in view of the remarks that follow.

Applicants assert that the subject matter of Davidson and the claimed invention of the present Application were, at the time the claimed invention was made, both owned by Given Imaging Ltd., as recorded by the assignments for Davidson (reel/frame no. 014256/0465) and for the present Application (reel/frame no. 019681/0990). Since Davidson qualifies as prior art under section 35 U.S.C. § 102(e), 35 U.S.C. § 103(c) provides that Davidson shall not preclude patentability of the claimed invention under that section.

Accordingly, Davidson cannot be used to reject claims 33 and 44 under 35 U.S.C. § 103. Claims 33 and 44 are therefore allowable.

Furthermore, each of claims 33 and 44 depends from claim 24, which as discussed is allowable over Davidson. Iddan does not cure the deficiencies of Davidson and therefore, claims 33 and 44 are likewise allowable.

Applicants respectfully request reconsideration and withdrawal of the rejection of claim 33 under 35 U.S.C. § 103 as being unpatentable over Davidson alone and Davidson in combination with Iddan.

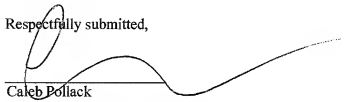
CONCLUSION

In view of the foregoing amendments and remarks, Applicants assert that the pending claims are allowable. Their favorable reconsideration and allowance is respectfully requested.

Should the Examiner have any question or comment as to the form, content or entry of this Amendment, the Examiner is requested to contact the undersigned at the telephone number below. Similarly, if there are any further issues yet to be resolved to advance the prosecution of this application to issue, the Examiner is requested to telephone the undersigned counsel.

No fees are believed to be due in connection with this paper. However, if any such fees are due, please charge any fees associated with this paper to deposit account No. 50-3355.

Respectfully submitted,



Caleb Pollack
Attorney/Agent for Applicant(s)
Registration No. 37,912

Dated: November 16, 2009
Pearl Cohen Zedek Latzer, LLP
1500 Broadway, 12th Floor
New York, New York 10036
Tel: (646) 878-0800
Fax: (646) 878-0801